

FILED
HURON COUNTY
COMMON PLEAS COURT
19 FEB 27 AM 10:09
CVC 2019 0166
SUSAN S. HAZEL
CLERK OF COURTS

JEREMIAH WEITZEL
220 Crestwood Dr.
Willard, OH 44890

Plaintiff,

vs.

CHRISTOPHER MALEC
38416 Palmer Rd.
Westland, MI 48185

And

BLUE WATER TRUCKING, INC.
14889 33 Mile Rd.
Romeo, MI 48065

And

STATE AUTO INSURANCE COMPANY
P.O. Box 182822
Columbus, OH 43218

And

STATE OF OHIO, DEPARTMENT OF
MEDICAID
50 W Town St. #400
Columbus, OH 43215

And

JOHN DOE #1 (driver - whose actual name is
unknown and whose name and address the
Plaintiffs could not discover)

And

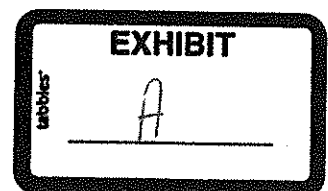
JOHN DOE #2 (employer - whose actual
name is unknown and whose name and
address the Plaintiffs could not discover)

Case No:

JUDGE

COMPLAINT

Type: Personal Injury



And

JOHN DOE #3 (owner - whose actual name is unknown and whose name and address the Plaintiffs could not discover)

Defendants.

Now comes Plaintiff, Jeremiah Weitzel, by and through his attorneys, Kisling, Nestico & Redick, LLC, and for his Complaint he states:

COUNT I

(Negligence or Negligence *Per Se* of Defendant, Christopher Malec and/or John Doe #1, as to Jeremiah Weitzel)

1. On or about March 14, 2017 while traveling Westbound on State Route 18, in the Township of Clarksfield, Huron County, Ohio, Defendant, Christopher Malec and/or John Doe #1 (whose actual name is unknown and whose name and address the Plaintiff could not discover), individually and/or in the course and scope of his employment with John Doe #2 (whose actual name is unknown and whose name and address the Plaintiff could not discover), negligently operated a motor vehicle and failed to maintain an assured clear distance ahead in violation O.R.C. §4511.21(A) and negligently failed to keep a proper lookout so as to strike the vehicle driven by Plaintiff, Jeremiah Weitzel.
2. As a direct and proximate result of the Defendant, Christopher Malec and/or John Doe #1's negligence and negligence *per se*, the Plaintiff, Jeremiah Weitzel suffered injuries to his body causing pain and suffering and will continue to suffer said pain and suffering into the future and upon a permanent basis.
3. As a further result, the Plaintiff, Jeremiah Weitzel incurred medical and hospital expenses and expects to incur such expenses in the future.

4. As a further result, the Plaintiff, Jeremiah Weitzel has incurred lost income and will suffer future loss of income and has incurred a loss of earning capacity.

5. Defendants John Doe #1 and John Doe #2 presently unidentified, will in no way be prejudiced in the maintenance of their defense on the merits within the meaning of Rule 15(D) of the Ohio Rules of Civil Procedure because of their constructive or actual notice of the institution of this case. Except for the inability of the Plaintiff to discover the name of these Defendants, this action would be brought against them in their proper, true, and exact name and capacity, and said information will be provided by Plaintiff when such information becomes fully known to him.

COUNT II

(Negligent Entrustment of the Vehicle Operated by Defendant, Christopher Malec and/or John Doe #1)

6. Plaintiff re-alleges and incorporates all paragraphs above as though fully rewritten herein.

7. At all relevant times herein, the Defendant, Blue Water Trucking, Inc., or John Doe #3, (whose actual name is unknown and whose name and address the Plaintiffs could not discover) owned the motor vehicle operated by the Defendant, Christopher Malec, or John Doe #1 and negligently entrusted the care, custody, and control of its motor vehicle to the Defendant, Christopher Malec, or John Doe #1, when it knew or should have known that Christopher Malec, or John Doe #1, would negligently operate said vehicle.

8. As a result of the Defendant's negligence, Plaintiff, Jeremiah Weitzel suffered injuries and damages as stated in paragraphs two (2) through four (4) herein.

COUNT III

(Plaintiff's Entitlement to Uninsured Motorists/Underinsured Motorists Coverage and Medical Payments Coverage)

9. Plaintiff re-alleges and incorporates all paragraphs above as though fully rewritten herein.

10. At all relevant time herein, the vehicle Plaintiff, Jeremiah Weitzel was driving was insured with a motor vehicle policy issued by Defendant State Auto Insurance Company, which provides for uninsured/underinsured coverage and medical payments coverage.

11. Said Defendant, State Auto Insurance Company policy provides uninsured/underinsured motorist and medical payments for the vehicle that the Plaintiff, Jeremiah Weitzel was operating when it was struck by the vehicle operated by Defendant Christopher Malec or John Doe #1, an uninsured or underinsured individual.

12. Said policy is not attached hereto as it is not currently in possession of the Plaintiffs, but a copy of said policy is in the possession of the Defendant State Auto Insurance Company.

13. As a result of the negligence and negligence *per se* of the Defendant, Plaintiff, Jeremiah Weitzel, State Auto Insurance Company's insured is entitled to benefits up to the amount of the limits of the State Auto Insurance Company policy.

14. As a result of the Defendant's negligence, Plaintiff, Jeremiah Weitzel suffered injuries and damages as stated in paragraphs two (2) through four (4) herein.

COUNT IV

(Subrogation Interest of State of Ohio, Department of Medicaid)

15. Plaintiff re-alleges and incorporates all paragraphs above as though fully rewritten herein.

16. The State of Ohio, Department of Medicaid claims a statutory right of subrogation and/or reimbursement for medical expenses and other benefits which they have paid as a result of the negligent acts of the Defendant, Christopher Malec pursuant to Ohio Revised Code Sections 5160.37 and 5160.38,

17. That State of Ohio, Department of Medicaid's case number related to the injuries sustained by Plaintiff, Jeremiah Weitzel on March 14, 2017 is 1086640.

18. The Ohio Department of Job and Family Services is therefore joined in this matter as an involuntary Plaintiff so that they may appear and protect their interests which, pursuant to Ohio Revised Code Sections 5160.37 and 5160.38, Plaintiff may not have standing to pursue in his own name.

WHEREFORE, the Plaintiff, Jeremiah Weitzel, demands judgment against the Defendants as follows:

- (A) Compensatory damages for Plaintiff, as against all Defendants, in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), but currently unspecified pursuant to Civil Rules 8(A) and 54(C), plus costs incurred in this action plus interest and attorney's fees;
- (B) Declaration that Plaintiff, Jeremiah Weitzel is entitled to benefits under State Auto Insurance Company's policy; and
- (C) Such other relief which this Court may deem appropriate.

Respectfully Submitted,

KISLING NESTICO & REDICK



Lorri J. Britsch (#0067507)

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